

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

JACOB SMITH,

Petitioner,

vs.

JIM SALMONSEN; ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Respondents.

Cause No. CV 21-70-H-SEH

ORDER

On September 1, 2021, Petitioner Jacob Smith (“Smith”) filed a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody.¹ On September 27, 2021, he was ordered to show cause as to why his petition should not be dismissed as time-barred and procedurally defaulted.² An extension of time to October 29, 2021, in which to respond was granted.³ In companion cases, Smith has been granted multiple extensions in which to respond.⁴

On October 22, 2021, Smith was accorded until 4:45 p.m. October 29, 2021, to file a response or the case would be dismissed.⁵ Smith did not respond as ordered.

¹ Doc. 1.

² Doc. 4.

³ See Doc. 6.

⁴ See *Smith v. Guyer et al.*, Cause No. CV-21-14-H-SEH & *Smith v. Salmonsens et al.*, Cause No. CV-21-40-H-SEH.

⁵ Doc. 6.

Smith has failed to comply with the Court's Order.⁶ Relevant factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions" have been weighed.⁷ None warrant application here. The case is dismissed.

No basis to encourage further proceedings exists.⁸ A certificate of appealability is denied.⁹

ORDERED:

1. Smith's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody¹⁰ is DISMISSED.

2. The Clerk of Court is directed to enter, by separate document, a judgment in favor of Respondents and against Petitioner.

3. A certificate of appealability is DENIED.

DATED this 5th day of November, 2021.


Sam E. Haddon
United States District Judge

⁶ See Fed. R. Civ. P. 41(b); see also *Link v. Wabash Railroad Co.*, 370 U.S. 626, 629–30 (1962); see also *Pagtalunan v. Galaza*, 291 F. 3d 639, 641–45 (9th Cir. 2002).

⁷ *Carey v. King*, 856 F. 2d 1439, 1440 (9th Cir. 1988); see also *Pagtalunan*, 291 F. 3d 642.

⁸ *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

⁹ 28 U.S.C. § 2253(c)(2); Rule 11(a), Rules governing § 2254 Proceedings.

¹⁰ Doc. 1.